



**Subject: FILING AND REPORTING FORM 1099 INFORMATION
RETURNS WITH THE INTERNAL REVENUE SERVICE**

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10-70-00 PURPOSE

This chapter establishes Departmental policy and prescribes guidance for HHS Finance Offices to comply with the Internal Revenue Service (IRS) requirements for the issuance and reporting of information returns (IRS Forms 1099) for certain types of non-Federal payments made during the calendar year (CY). It also addresses related payee Backup Withholdings required by IRS. This policy, which must be implemented by each HHS Finance Office, is intended to accomplish the following:

- Establish Departmental policy and prescribe HHS Finance Office requirements with regard to the data collection, Backup Withholding, filing and reporting requirements for IRS Forms 1099 information returns.
- Establish guidance from which each HHS Finance Office shall implement appropriate supplemental procedures to accommodate its unique organizational and program specific requirements and conditions.

10-70-10 AUTHORITY AND COVERAGE

It is Departmental policy that all HHS Finance Offices will fully comply with IRS requirements to report via IRS Forms 1099 all payments of \$600 or more made during the CY to a qualifying non-Federal payee such as an individual, a trust, estate, partnership, association, company or corporation unless specifically exempted.

This policy also includes reporting (1) discharged debts which have become uncollectible because the applicable statute of limitation expires or because the Government agrees with the debtor to forgive or compromise the debt in accordance with 45CFR30, (2) interest payments made under the Prompt Payment Act where the amount is \$600 or more, and (3) legal fees paid solely to an attorney from beneficiaries' retroactive benefits under Section 206b of the Social Security Act and the Equal Access to Justice Act. Further, if such a non-Federal payee fails or refuses to furnish a Taxpayer Identification Number (TIN) as discussed in 10-70-20, the Internal Revenue code requires that the Federal agency deduct and withhold for taxes an amount equal to 31% of such payment as a Backup Withholding.

The following types of payees and payments are exempt under the Internal Revenue Code from information return reporting requirements:

- Prior to CY 1997 payments to corporations were excluded from IRS Form 1099 information return reporting, except for payments of \$600 or more made to corporations providing medical and health care services.

Starting in CY 1997, Section 1022 of the Taxpayer Relief Act of 1997 requires that all Federal executive agencies must file IRS Form 1099 information returns for payments of \$600 or more to corporations for services (object class 25).

- A hospital or extended care facility which is exempt from taxation under Section 501(a) of the Internal Revenue Code. Also exempted is a hospital or extended care facility owned and operated by a State, the District of Columbia, a possession of the United States, or a political subdivision, agency or instrumentality of any of the foregoing.
- Payments of bills for merchandise, telegrams, telephone, freight, storage and similar charges.
- Payment of rent made to real estate agents.
- OPDIV approved reimbursements to a non-Federal payee for travel performed in accordance with the Federal Travel Regulations and settled pursuant to Departmental voucher examination requirements.

- Payments representing earned income for services rendered outside the United States made to a citizen of the United States, if it is reasonable to believe that such amounts will be excluded under Section 911 of the Internal Revenue Code.
- An amount in dispute, which is discharged under Title 11 of the Bankruptcy Act, or which arises out of an overpayment which was already taxed.
- Payments to military or civilian personnel of the United States, a State, Territory or political subdivision thereof, or the District of Columbia as an allowance or reimbursement for travel or other bona fide and necessary expenses. This includes allowances for meals and lodging or a per diem allowance in lieu of subsistence.
- Amounts paid to persons in the service of an international organization, as an allowance or reimbursement for traveling or other bona fide ordinary and necessary expenses, including an allowance for meals and lodging or a per diem allowance in lieu of subsistence.
- Informer fees.

IRS has developed specialized Forms 1099 for reporting purposes. Generally, most qualifying non-Federal payments will be reported by HHS Finance Offices on the IRS Form 1099-MISC. IRS Form 1099-C must be used to report discharged debt of \$600 or more, exclusive of interest; IRS Form 1099-G must be used to report cancellation of debt; and IRS Form 1099-INT must be used to report interest payments made under the Prompt Payment Act. (See 10-70-40 for a further discussion.)

IRS requires that information reported on the IRS Forms 1099 must be summarized and transmitted on IRS Form 1096, Annual Summary and Transmittal of U.S. Information Returns. In addition, HHS Finance Offices will also use IRS Form 945, Annual Return of Withheld Federal Income Tax Reported on Forms 1099, to summarize and report to the IRS any Backup Withholding payments or deposits made during the CY. (See 10-70-50D for further discussion of Backup Withholding reporting, payments and deposits.)

**10-70-20 PAYEE TAXPAYER IDENTIFICATION NUMBER AND BACKUP
WITHHOLDINGS**

- A. Each payee expected to receive reportable payments during the CY must provide a 9 digit Taxpayer Identification Number (TIN) to the applicable HHS Finance Office. For an individual payee the TIN is generally a Social Security Number (SSN); for other payees it is the Employer Identification Number (EIN). The HHS Finance Office should request the payee to provide this information on IRS Form W-9, Payer's Request for Taxpayer Identification Number. If the taxpayer is registered in the Department's Central Registry System (CRS) with a valid TIN (SSN or EIN), it is not necessary to request the IRS Form W-9 information from the payee.
- C. When a payee has furnished the HHS Finance Office with a correct TIN and has certified being exempt from Backup Withholding, the payee is subject only to IRS information return requirements.
- D. Under the conditions below the HHS Finance Office will initiate Backup Withholdings at the rate of 31% on payments of interest, rents, royalties, nonemployee compensation, and other payments. The payee must be notified when withholding starts and, as required by the Internal Revenue Code, a notice citing Backup Withholding of 31% must be included with the first check sent to the payee
- The payee does not furnish a TIN. If the payee has applied to IRS for one and states so on the IRS Form W-9, withholding will start if the TIN is not received within 60 days and will continue until it is received.
 - IRS notifies the HHS Finance Office that the payee's TIN is incorrect. A copy of the IRS notice will be provided to the payee along with a request for a corrected TIN. Withholding will start on the 31st day after the IRS notice is received, and continue until the payee provides a new TIN.
 - Notification is received from IRS that the payee is subject to Backup Withholding. Withholding will start on the 31st day after the IRS notice is received, and continue until IRS provides a written notice to stop withholding to the HHS Finance Office or the payee.

10-70-30 PAYEE RECORD

Finance Officers must be able to identify amounts of \$600 or more paid on a CY basis to non-Federal payees from payee records. Data recorded must contain the payee name, address, and TIN (and designate the TIN as either an SSN or EIN). Each OPDIV accounting system must be capable of aggregating on a payment-by-payment basis all amounts paid during a CY, including any Backup Withholdings.

10-70-40 IRS FORMS FOR PAYMENT INFORMATION REPORTING

Payments made by HHS Finance Offices are reported on IRS Forms 1099 (see 10-70-10 for exemptions). Following is a listing of the more common types of Forms 1099 and a description of the kind of payments reported on them.

- 1099-C, Statement for recipients of Cancellation of Debt: Used to report an indebtedness in excess of \$600 (exclusive of interest) owed to the Department which has been declared uncollectible because the applicable statute of limitations has expired or the Department has agreed to forgive the debtor or compromise the debt.
- 1099-G, Statement for Recipients of Certain Government Payments: Used to report taxable grants of \$600 or more, unless the grant is tax exempt as a result of its authorizing legislation.
- 1099-INT, Statement for recipients of Interest Income: Used to report interest payments in a CY of \$600 or more under the Prompt Payment Act.
- 1099-MISC, Statement for recipients of Miscellaneous Income: Used to report payments in a CY of \$600 or more for such items as rents, royalties, medical and health care payments, non-employee compensation, and other income.

Information on any required Backup Withholding must be reported in the applicable block of IRS Forms 1099.

10-70-50 REPORTING AND RETENTION OF RECORDS

- A. IRS Forms 1099 must be prepared, reported and distributed as follows after the close of the reportable CY:
- Copy A must be transmitted by the end of February to the IRS together with IRS Form 1096, Annual Summary and Transmittal of U. S. Information Returns.
 - Copy B must be provided by the end of January to qualifying non-Federal payees.
 - Copy C must be retained by the Finance Office.
- B. IRS Form 1096, Annual Summary and Transmittal of U.S. Information Returns, together with copy A of the supporting IRS Forms 1099, must be filed with the IRS by the end of February after the close of the reportable CY. A separate IRS form 1096 transmittal must be prepared for each specialized type of IRS Form 1099 (i.e., 1099-C, 1099-INT, 1099-G, or 1099-MISC). Unless a waiver has been obtained from IRS, each issuing finance office must file using magnetic media procedures (which are available at the IRS Service Centers and District Offices) if there are more than 250 information returns of each specialized type. Requests for a waiver from IRS reporting media requirements is the responsibility of each affected HHS Finance Office.
- C. Backup Withholding shall be reported to IRS separately by the end of January on IRS Form 945, Annual Return of Withheld Federal Income Tax reported on Forms 1099. Each HHS Finance Office making Backup Withholding must report payee withholdings to IRS and make payments in accordance with the following payment schedules:
- If prior CY Backup Withholding amounts were less than \$500, remit annually with the IRS Form 945 using the IRS Form 945-V (Form 945 Payment Voucher).
 - If prior CY Backup Withholding amounts were \$50,000 or less, remit monthly either by electronic funds transfer using the Electronic Federal Tax Payment System (EFTPS); or by using IRS Form 8109, Federal Tax Deposit Coupon, at an authorized financial institution or Federal Reserve Bank.

- If prior CY Backup Withholding amounts were more than \$50,000, remit semi-weekly by electronic funds transfer using the Electronic Federal Tax Payment System (EFTPS). An IRS Form 945-A, Annual Record of Federal Tax Liability, must also be completed and submitted with the IRS Form 945 if semi-weekly deposits are being made.

D. Retention of Forms. Each HHS Finance Office must retain payee records, and IRS Forms 1099, 1096 and 945 for a minimum of 5 years.

10-70-60 REFUNDS OF AMOUNTS ERRONEOUSLY WITHHELD

Withholding erroneously deducted from a payee not subject to Backup Withholding or from a non-reportable payment must be refunded by the HHS Finance Office to the payee. Each HHS Finance Office must prepare a voucher to support refunding any erroneous withholding. Amounts refunded are to be recorded as a reduction on the payee record of the aggregate Backup Withholding. If a non-Federal payee provides a TIN or evidence that the payee is exempt from Backup Withholdings, or if the IRS so advises, a refund must be made provided the prior withholdings have not already been filed on the annual IRS Form 945. If already filed with the IRS, credit can be claimed for the withholdings on the payee's tax return.